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Attorneys for Defendants

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

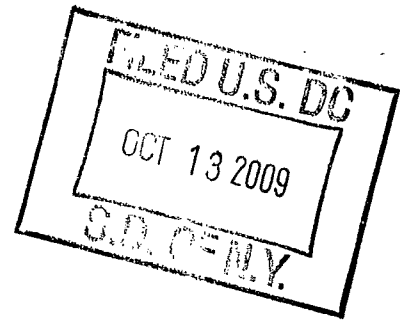
SOMPO JAPAN INSURANCE COMPANY OF
AMERICA, and SOMPO JAPAN INSURANCE,
INC.

Plaintiffs,

- against -

NORFOLK SOUTHERN RAILWAY COMPANY,
NORFOLK SOUTHERN CORPORATION, and
THE KANSAS CITY SOUTHERN RAILWAY
COMPANY

Defendants.



NO.: 07 CIV. 2735 (DC)

JUDGE CHIN

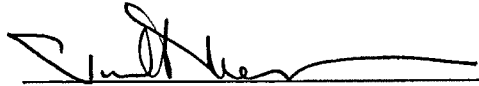
NOTICE OF APPEAL

Notice is hereby given that defendants, Norfolk Southern Corporation, Norfolk Southern Railway Company and The Kansas City Southern Railway Company hereby appeal to the United States Court of Appeals for the Second Circuit from the Judgment granting plaintiffs' motion for summary judgment and denying defendants' motion for summary judgment and awarding damages to plaintiffs entered in this action on the 19th day of September, 2009 and entered upon

the docket on the 21st day of September, 2009 (DE # 73) and the Court's Orders determining that 49 U.S.C. § 11706 is applicable to the above styled case (DE ## 38, 44 and 70).

KEENAN COHEN & HOWARD P.C.

By:



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Attorneys for Defendants
Norfolk Southern Railway Company,
Norfolk Southern Railway Corporation, and
The Kansas City Railway Company

Dated: October 13, 2009

CERTIFICATE OF SERVICE

I, the undersigned counsel, hereby certify and declare under penalty of perjury that on October 13, 2009, a true and correct copy of the foregoing Defendants' Notice of Appeal was sent to the following party, listed below, by e-mail and first class mail:

David T. Maloof, Esquire
Thomas M. Eagan, Esquire
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411 Theodore Fremd Avenue, Suite 190
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Attorneys for Plaintiffs

By:

A handwritten signature in black ink, appearing to read 'Paul D. Keenan', written over a horizontal line.

Paul D. Keenan